THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2995 OF 2006

DATED:24.2.2006

Between:

K.Narayana Reddy

…Petitioner

And

The Mandal Revenue Officer,

Maheswaram Mandal,

Ranga Reddy District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2995 OF 2006

ORDER:

The petitioner's father, one Chennaiah, is allegedly granted a certificate under Section 38-E (1) of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 in respect of the land admeasuring Acs.2.00 in S.No.175, Acs.10.00 in S.No.149 of Pendyal Village, Maheswaram Mandal, Ranga Reddy District, and he was in possession of the property. After death of Chennaiah, petitioner herein succeeded to the property and he alleged that in 2002 the land was occupied by third parties, namely, M/s.Sai Reddy, S/o. Narayana Reddy, Prahlad Reddy, S/o.Late Sai Reddy, Jagan Mohan Reddy and Sridar Reddy, and petitioner was dispossessed. Therefore, he filed an application before the Mandal Revenue Officer purportedly under proviso to sub-section (2) of Section 38-E of the Act seeking

restoration of possession and mutation in his name, in vain. Therefore, he filed the present Writ Petition.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General), this Court is of considered opinion that the application made by the petitioner under proviso to sub-section (2) of Section 38-E of the Act is misconceived. Sub-section (2) of Section 38-E of the Act reads as under.

> **38-E.(1). … … …**
>
> **(2)**. A Certificate in the prescribed form declaring him to be owner shall be issued by the Tribunal after holding such enquiry as may be prescribed, to every such protected tenant and notice of such issue shall simultaneously be issued to the landholder. Such certificate shall be conclusive evidence of the protected tenant having become the owner of the land with effect from the date of the certificate as against the landholder and all other persons having any interest therein:
>
> Provided that where the land, the ownership of which has been transferred to the protected tenant under sub-section (1), is in the occupation of a person other than the protected tenant or holder of the certificate issued under this sub-section, it shall be lawful for the Tahsildar to restore the possession of the said land to the protected tenant or holder of the certificate, after giving notice of eviction to the occupant thereof, in the prescribed manner.

A plain reading of the same would show that if at the time of issue of ownership certificate under Section 38-E (1) of the Act, the protected tenant is not in possession, it shall be lawful for the Tahsildar to restore the possession duly evicting the occupants. In this case, from1975 onwards, the petitioner or his father was in possession of the property and it was only in 2002 some third parties illegally occupied the land. In such situation, remedy of the petitioner is to approach the Civil Court to get back possession, and the Mandal Revenue Officer has no power under the provision relied upon.

The Writ Petition is misconceived and is accordingly dismissed.

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(V.V.S.RAO, J)

24.2.2006

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